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Dante Monteverde

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EXAMINER

MILLER, ALAN S

ART UNIT

PAPER NUMBER

3624

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,992	<b>Applicant(s)</b> MONTEVERDE, DANTE	
	<b>Examiner</b> ALAN MILLER	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Appeal Brief***

1. In view of the Supplemental Appeal Brief filed on 10/8/2010, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/LYNDA C JASMIN/

Supervisory Patent Examiner, Art Unit 3624.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1 - 24, on page 6 of the brief, in regards to Veschi not including a forwarded copy of the complaint have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sloo (U.S. 5,668,953).

Applicant's further arguments filed 10/8/2010 have been fully considered but they are not persuasive.

Applicant argues, on pages 6 - 7 that Veschi does not teach a numerical representation of the ratings, and further argues on page 8 that Rebane fails to disclose rating or raking righteousness of a complaint. However, the Veschi reference was not used to teach a numerical representation of the ratings, Rebane was. Further, Rebane was not used to teach rating or raking righteousness of a complaint, Veschi was. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The combination of Sloo, Veschi and Rebane, in light of the new grounds of rejection, renders claims **1-7, 11 – 16 and 20 – 24** obvious.

In response to applicant's argument that the references fail to show certain features of applicant's invention, as argued on pages 8 – 9 in reference to Applicant's paragraph [0014], it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification

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are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues, on pages 9 - 10 that Tewari fails to disclose receiving from third parties a plurality of ratings indicating said third parties opinions of righteousness of said complaint or a numerical representation of the ratings. However, as shown in the response above, the combination of Veschi and Sloo were used to teach these limitations, Tewari was used to disclose the step of verifying the origination of each of said third parties includes determining the respective third parties Internet Protocol address of a computer used by the third party; comparing the third party's Internet Protocol address to an Internet Protocol address assigned to the Internet merchant when the Internet merchant's response was received; or comparing the third party's Internet Protocol address to an Internet Protocol address assigned to the Internet consumer when the complaint was received. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The combination of Sloo, Veschi, Rebane and Tewari, in light of the new grounds of rejection, renders claims **8 - 10 and 17 - 19** obvious.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-7, 11 – 16 and 20 – 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo (U.S. 5,668,953) in view of Veschi (U.S. 7,251,607) in further view of Rebane (U.S. 6,539,392).

In respect to claim **1**, Sloo discloses:

receiving a complaint from a consumer in an electronic format regarding a merchant (see at least column 5, line 50 – column 6, line 56, which discloses a complaint registration step to register a user (i.e. *consumer*) complaint regarding a vendor (i.e. *a merchant*));

forwarding the complaint to the merchant for a merchant's response (see at least column 5, lines 65 – 16 and column 5, line 58 – column 7, line 3, which discloses the detailed description is delivered to the vendor, and further discloses the program notifies the vendor of the receipt of the complaint. Notification occurs by email and includes the contents of the complaint and instructions on how to contact the complaint handling apparatus to publicly respond to the complaint. This notification gives the vendor an opportunity to publicly respond to the complaint; see also column 7, lines 4 - 68));

displaying the complaint and a merchant's response on an Internet site (see at least FIG. 3, and further see also column 6, lines 51 – 57, which discloses the complaint is stored at a publicly accessible and searchable complaint record such as a computer bulletin board (i.e. *an internet site*) and see column 7, lines 47 - 58, which discloses the response are stored to the publicly access bulletin board (i.e. *internet site*)).

Sloo does not explicitly disclose receiving from third parties a plurality of ratings indicating said third parties' opinions of righteousness of said consumer and/or said merchant from users in an electronic format.

Veschi discloses receiving a complaint from a party in an electronic format regarding a second party(see at least column 6, line 53 – column 7, line 5, which discloses a party to the dispute provides information regarding the dispute, such as by filling in an initial complaint form); forwarding the complaint to the second party for a second party's response (see at least column 6, line 53 – column 7, line 5 which discloses the dispute system determines if the information provided includes information from both or all parties...if the answer is no, then a query is issued to the missing parties ... if one party submits, the submitting party may provide identification information of the other party and the query step may comprise an email to the other party informing them of the commenced dispute) and displaying the complaint and a merchant's response on an Internet site (see at least column 11, line 39 – column 13, line 52, and FIG. 8, 860, specifically column 12, lines 50 – 60, which discloses the transcript area displays the interaction between each party (i.e. *displaying the complaint and any merchant's response on an Internet site*); see also column 6, lines 4 – 33, which discloses a dispute system connected to a plurality of Squires and the parties, and also one or more visitors or observers referred to as the “gallery” may also be coupled to the system).

Veschi further discloses receiving from third parties a plurality of ratings indicating said third parties' opinions of righteousness of said consumer and/or said merchant from users in an electronic format (see at least column 6, lines 4 – 33, which discloses the gallery members may also have the ability to interact...to vote on whom should be the prevailing party, etc (i.e.

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*receiving from third parties a plurality of votes indicating said third parties' opinions of righteousness of said consumer and/or said merchant from users other than said consumer or said merchant in an electronic format* ).Veschi further discloses displaying the user's opinions and a voting tally (i.e. *displaying ratings*) and further discloses submitting to the gallery questions to receive their opinion (see at least FIG. 8, 875, 880, 895 and 897 and column 13, lines 20 – 35)).

It would have been obvious to one of ordinary skill in the art to include in the online, public dispute forum of Sloo the online, public dispute forum including a public voting of the disputes as disclosed by Veschi, since the claimed invention is merely a combination of old elements, since both inventions are directed towards online, public dispute resolution between two or more parties, and since one of ordinary skill in the art would have recognized that it would produce a predictable result of improving the dispute resolution system by allowing the public to not only view the complaints, but to also weigh in and vote on the complaints, and to allow the parties in the complaint to have neutral third parties help decide the outcome of the complaint.

Sloo nor Veschi explicitly disclose receiving ratings or displaying an averaged numerical representation of the ratings.

Rebane discloses receiving a plurality of users' ratings and displaying the ratings as an averaged numerical representation (see at least FIG. 2a, and column 9, line 66 - column 10, line 1 and column 10, lines 31 - 39, which discloses merchant questionnaires and ratings on a scale from 1 – 10 and FIG. 5a, which discloses average scores based on a scale of 1 - 10).



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Since each individual element and its function are shown in the prior art, albeit shown in separate references, the differences between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself- that is the questionnaire with scaled ratings and displayed average of ratings of Rebane for the Yes and No questions and voting tally as disclosed in the combined invention of Sloo and Veschi.

Thus, the simple substitution of one known element for another producing predictable result of using a questionnaire to solicit opinions and displaying an average scale of the ratings renders the claim obvious.

In respect to claim 2, the combined invention of Sloo, Veschi, and Rebane discloses determining the identification of each third\_party that submits an opinion of righteousness (see at least column Veschi 13, lines 53 – 64, which discloses the data record may include a unique identifier identifying the person and stats to indicate whether the person is a Squire, party or Gallery member; see also FIG. 10).

In respect to claim 3, the combined invention of Sloo, Veschi, and Rebane discloses determining the identification of the consumer (see at least Veschi column 13, lines 53 – 64, which discloses the data record may include a unique identifier identifying the person and stats to indicate whether the person is a Squire, party (i.e. *consumer*) or Gallery member; see also Veschi FIG. 10, 1015 ‘Status’). Examiner notes that the Plaintiff could be a consumer with a complaint against a merchant.

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In respect to claim **4**, the combined invention of Sloo, Veschi, and Rebane discloses determining the identification of the merchant (see at least Veschi column 13, lines 53 – 64, which discloses the data record may include a unique identifier identifying the person and stats to indicate whether the person is a Squire, party (i.e. *merchant*) or Gallery member; see also Veschi FIG. 10, 1015 ‘Status’).

In respect to claim **5**, the combined invention of Sloo, Veschi, and Rebane discloses comparing the identification of the consumer to the identification of each of said third parties (see at least Veschi column 13, lines 53 – 64, which discloses the data record may include a unique identifier identifying the person and stats to indicate whether the person is a Squire, party or Gallery member; Examiner notes that since each user has a unique identifier, the identification of the consumer is compared to the identification of each third party that submits an opinion or the identifier would not be unique).

In respect to claim **6**, the combined invention of Sloo, Veschi, and Rebane discloses comparing the identification of the merchant to the identification of each of said third parties (see at least Veschi column 13, lines 53 – 64, which discloses the data record may include a unique identifier identifying the person and stats to indicate whether the person is a Squire, party or Gallery member; Examiner notes that since each user has a unique identifier, the identification of the consumer is compared to the identification of each user that submits an opinion, or the identifier would not be unique).

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In respect to claim 7, the combined invention of Sloo, Veschi, and Rebane discloses wherein the step of displaying as an averaged numerical representation further comprises excluding ratings received from said consumer and said merchant. (see at least Veschi column 13, lines 53 – 64, which discloses that the dispute system may track the galleries votes, and prevent a gallery members vote from being counted twice, and further discloses the data record may include a unique identifier identifying the person and stats to indicate whether the person is a Squire, party or Gallery member; Examiner notes that since each user has a unique identifier, the identification of the consumer is compared to the identification of each user that submits an opinion, or the identifier would not be unique, and since only Squires or Gallery members may vote, the representation excludes the ratings from consumer and merchant, since they are not Gallery Members or Squires. )

In respect to claim 11, the combined invention of Sloo, Veschi, and Rebane discloses wherein the third party\_ratings include a rating of the credibility of the merchant and the consumer (see at least Veschi column 13, lines 29 – 35, which discloses the gallery voting; and see also Veschi FIG. 8, 890, which discloses the galleries' opinions, FIG. 8, 897, which discloses a voting (i.e. *include a rating of the credibility of the merchant and the consumer*)).

In respect to claim 12, the combined invention of Sloo and Veschi does not explicitly disclose wherein the third party ratings include a rating of the third party's prior interactions with the merchant.

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Rebane discloses wherein the third party ratings include a rating of the third party's prior interactions with the merchant (see at least FIG. 2a, and column 9, line 66 - column 10, line 1, which discloses merchant questionnaires (i.e. an analysis of the user's prior interactions with the merchant)).

It would have been obvious to one of ordinary skill in the art to include in the users opinions of Sloo and Veschi the merchant questionnaires as taught by Rebane since the claimed invention is merely a combination of old elements, and one of ordinary skill in the art would have recognized that it would produce a predictable result of having opinions from the gallery from users that have had some experience with the merchant, or to allow users that have had experience with the merchant become Squires (see at least Veschi, column 6, lines 4 - 11).

In respect to claim **13**, the combined invention of Sloo and Veschi does not explicitly disclose wherein the step of receiving a plurality of ratings includes receiving a scaled numerical representation from the user.

Rebane discloses wherein the step of receiving a plurality of ratings includes receiving a scaled numerical representation from the user (see at least FIG. 2a, and column 9, line 66 - column 10, line 1 and column 10, lines 31 - 39, which discloses merchant questionnaires and ratings on a scale from 1 - 10).

It would have been obvious to one of ordinary skill in the art to include in the users opinions of Sloo and Veschi the merchant questionnaires as taught by Rebane since the claimed invention is merely a combination of old elements, and one of ordinary skill in the art would

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have recognized that it would produce a predictable result of having numerical opinions from the gallery based on a survey in addition to voting or typing free-form opinions.

Claims **14 - 16, and 20 - 24** recite subject matter similar to that already rejected above.

Therefore, claims **14 - 16, and 20 - 24** are rejected on the same basis as claims **1 - 7** and **11 - 13**.

Claims **8 - 10 and 17 - 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo in view of Veschi in view of Rebane in further view of Tewari et al. (U.S. 7,363,361, hereinafter Tewari).

In respect to claims **8 - 10**, the combined invention of Sloo, Veschi and Rebane discloses a unique identifier identifying the person and a status (see at least Veschi column 13, lines 53 - 64). Veschi does not explicitly disclose wherein the step of verifying the origination of each of said third parties includes determining the respective third parties Internet Protocol address of a computer used by the third party; comparing the third party's Internet Protocol address to an Internet Protocol address assigned to the Internet merchant when the Internet merchant's response was received; or comparing the third party's Internet Protocol address to an Internet Protocol address assigned to the Internet consumer when the complaint was received.

Tewari et al. discloses using a user's IP address and/or URL to authenticate the user (i.e. *determining the third party's Internet Protocol*) (col. 49, lines 3-17 and 32-33). Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the combined invention of Sloo, Veschi, and Rebane to use a user's IP address and/or

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URL to authenticate the user as doing so ensures that the user is who they say they are by identifying the computer they are coming from, thereby enhancing the integrity of the complaint system.

Claims 17 - 19 recite subject matter similar to that already rejected above. Therefore, claims 17 - 19 are rejected on the same basis as claims 8 - 10 above.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Sloo (US 5895450 A) discloses a method and apparatus for handling complaints, including external parties to help render the solution.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN MILLER whose telephone number is (571)270-5288.

The examiner can normally be reached on Mon - Fri, 10:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LYNDIA JASMIN can be reached on (571) 272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. M./

Examiner, Art Unit 3624

/LYNDA C JASMIN/

Supervisory Patent Examiner, Art Unit 3624